

REMARKS

The Office Action of February 26, 2010 has been received and carefully reviewed. It is submitted that, by this Amendment, all bases of rejection and objection are traversed and overcome. Upon entry of this Amendment, claims 1-5, 8-10, 12, 14, 23, 24, 26, and 27 remain pending in the application. Claims 1, 2, 4, 16, 17, 21, and 25 were previously withdrawn. It is noted that claims 3, 5, and 8 have been amended to include the withdrawn subject matter relating to the "fixed status" of the mobile vehicle. As such, claims 3, 5, and 8, and any claims depending from these claims, is identified herein as being withdrawn. Claims 6, 7, 11, 13, 15-22, and 25 are cancelled without prejudice. Claims 12, 14, 23 and 24 have been revised to depend from allowed claim 26. Reconsideration of the claims is respectfully requested.

Status of the claims: Claims 3, 5, 8-10, 12-15, 18-20, 22-24 and 27 stand rejected under 35 U.S.C. § 103(a). Claim 26 is allowed.

At the outset, the Applicants note that each of independent claims 1, 3, 5, and 8 have been amended herein to include (or had previously included), in some form, the following recitations:

- providing (via a voice portal) interaction between the mobile vehicle and an application operating within an application server at the call center to determine a download status of the telematics unit and associated components;
- the download status is a fixed status requiring the mobile vehicle to maintain a stationary period for a predetermined fixed time period;
- storing (via a database) the vehicle personalization settings when the download status of the telematics unit and associated components is negative;
- sending/transmitting (via a modem bank) vehicle (personalization) settings from the call center to the telematics unit when the download status of the telematics unit and associated components is positive;
- wherein if the download status is positive, the mobile vehicle has maintained the stationary position for the predetermined fixed time period; and

- wherein the sent/transmitted vehicle (personalization) settings are selected from modifying power train behavior, modifying seat behavior, modifying mirror behavior, and combinations thereof.

The Applicants realize that the "fixed status" is directed to withdrawn subject matter, and as such, the claims including the above recitations have been identified herein as being withdrawn. However, since claim 26 has been allowed, it is requested that the Examiner also consider claims 1-5, 8-10, and 27 for rejoinder. Claims 1, 3, 5, and 8 are method claims which require all of the limitations of the system as defined in allowed claim 26. Thus, under the requirements of MPEP §821.04(b), since claim 26 has been allowed, it is submitted that claims 1-5, 8-10, and 27 are eligible for rejoinder, and the previous restriction requirement of claims 1-5, 8-10, and 27 should be withdrawn.

In the outstanding Office Action, claims 3 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Matula et al. (U.S. Pat. Publication No. 2003/0181162); claims 5, 14, 15, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rigo et al. (U.S. Pat. Publication No. 2002/0049535); and claims 8-10, 12-15, 18-20, and 22-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rigo et al. in view of Duperrouzel et al. (U.S. Patent No. 7,149,982).

Claims 13, 15, 18-20, and 22 have been cancelled and thus any rejections of these claims are rendered moot.

Claims 12, 14, 23, and 24 have been amended to depend from allowed claim 26. It is submitted that, because of this dependency, these claims are also in condition suitable for allowance. Support for the revisions to claim 12 can be found in the application as filed, at least at page 13, lines 15-20 of the application as filed. Support for the revisions to claim 14 can be found in the application as filed, at least at page 12, lines 27-29 and page 18, lines 14-22. Support for the revisions to claims 23 and 24 may be found at least at page 20 and 21 of the application as filed.

As set forth above, independent claims 3, 5, and 8 have been amended herein to include the limitations of allowed claim 26. None of the cited references, either alone or in combination, teach or suggest determining a download status of the telematics unit and

associated components, wherein the download status is a fixed status requiring the mobile vehicle to maintain a stationary period for a predetermined fixed time period; storing settings when the download status is negative; and sending/transmitting settings when the download status is positive, wherein if the download status is positive, the mobile vehicle has maintained the stationary position for the predetermined fixed time period, and wherein the sent/transmitted settings are selected from modifying power train behavior, modifying seat behavior, modifying mirror behavior, and combinations thereof. Not only does the prior art not teach or suggest the method as defined in claims 3, 5, and 8, but since each of claims 3, 5, and 8 are method claims requiring all of the limitations of independent claim 26, it is again submitted that claims 3, 5, and 8 (and those claims depending therefrom) are eligible for rejoinder.

It is submitted that the absence of a reply to a specific rejection, issue or comment in the instant Office Action does not signify agreement with or concession of that rejection, issue or comment. Finally, nothing in this amendment should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this amendment, and the amendment of any claim does not signify concession of unpatentability of the claim prior to its amendment.

In summary, claims 1-5, 8-10, 12, 14, 23, 24, 26, and 27 remain in the application. In view of the foregoing arguments, all pending claims are believed to be in condition for allowance, and such action is respectfully requested. Therefore, this response is believed to be a complete response to the Office Action, and further and favorable consideration is respectfully requested.

It is believed that no extensions of time or fees are required, but to the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this Amendment, including extension of time fees, to Deposit Account 07-0960, and please credit any excess fees to such deposit account.

If the Examiner believes it would expedite prosecution of the above-identified application, the Examiner is cordially invited to contact the undersigned attorney at the below-listed telephone number.

Respectfully submitted,

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